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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,310	03/14/2000	Lennart Braberg	KRNOS-009XX	8521

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BOSTON, MA 02109

EXAMINER

JASMIN, LYNDIA C

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/524,310

Applicant(s)

BRABERG ET AL.

Examiner

Lynda Jasmin

Art Unit

3627

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-28,30-33,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-28,30-33,35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7, 9-20, 26-29, 31-33, 35 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Kahn et al. (6,401,079 B1).

Kahn et al. discloses a method for calculating an employee's compensation, including, in a processor (via application server 20), associating sets of attributes (via pay rate type, job classification) with pay categories (employee's payroll groups: salaried, hourly employees), associating a compensation qualifier (via standard pay rate with multiplier and/or increment see fields 3895 3915) with each pay category (col. 37, lines 29-48), forming one or more completed shifts (via the payroll information for employer-defined payroll group), responsive to identified transactions (via specifying an autopay schedule, as illustrated in the autopay schedule for full time employee) and the employee's schedule (such as number of hours per workday; col. 36. lines 60-67), splitting the employee's shifts into sub-shifts (earnings broken out by types as for example overtime) responsive to work parameters (apply rules via Rules data 120), and for each subshift determining a set of attributes (such as non-exempt limits) for the sub-

Art Unit: 3627

shift (for each overtime hours), determining and assigning a pay category with, which the set of attributes is associated, to the sub-shift (col. 14, lines 34-39), and determining compensation for the employee for the subshift, responsive to the assigned pay category, the employee's base pay and a compensation qualifier associated with the pay category (col. 14, lines 64-67). Each set of attributes is a unique combination of attributes (as illustrated in the payroll information). The work parameters (via apply rules) include at least one of workplace rules (col. 16, lines 29-31), scheduled time, holiday calendars, dates and times of the shift (via the autopay schedules and holidays). Kahn et al. further discloses creating a mapping which maps each set of attributes to at least one pay category (via pay rates and pay scales for particular job classifications), and determining the at least one pay category with which the set of attributes is associated is responsive to the mapping (col. 42, lines 12-37). This mapping is configurable by a user (the employer). Kahn et al. further discloses determining a total compensation for an employee for a pay period by adding the amounts determined for each subshift of the pay period (via the payroll information col. 41, lines 23-33). The plural compensation qualifiers are associated with a pay category, each compensation qualifier being in effect for a different time of day (via pay multiplier or added increments). Kahn et al further discloses the compensation qualifier including a bonus time, such that determining compensation for the employee for the sub-shift comprises awarding the employee the bonus time (via a on time payments to employees col. 37, lines 9-14).

Art Unit: 3627

Kahn et al. further discloses a threshold for a first pay category (via standard pay rate) and defining an overflow pay category (via adjusting the standard pay rate) and calculating, for a given period (daily, weekly or bi-weekly), a total time awarded to the first pay category, and if the total time awarded to the first pay category exceeds the threshold, transferring the excess awarded time to the overflow pay category (by calculating overtime, double time, non-overtime, standard, time-and-a-half and employment defined rates, for high risk job which are used to generate payroll information).

Kahn et al. further discloses that employee's actual compensation is calculated based on actual attendance and applicable compensation rules (by calculating total hours worked, regular hours worked and calculating overtime as illustrated in Figure 41 (a and b)).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahn et al.

Kahn et al. does not explicitly disclose calculating compensation based on actual attendance collected from punch information with any or all of IN/OUT information, timestamps and break indications collected by a reader or biometrics device.

However, the payroll information system of Kahn et al. discloses timesheet details for each employee along with day, date, earnings pay rate hours and note of events for an approved timesheet. Kahn et al. further discloses an autopay schedule including a specified number of hours per workday and can be used for an employee will a fixed working schedule. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the payroll information for each employee taught by Kahn et al. with punch information in order to provide employer with an accurate employee's attendance. As per using reader or biometrics device, these devices are common and well-known devices used in monitoring employees clocking in and out and the Examiner takes Official Notice as such.

Response to Arguments

5. Applicant's arguments filed January 9, 2004 have been fully considered but they are not persuasive.

Applicants first argue "claims 1, 33, and 35-36 which include the limitations of claim 29, are neither anticipated nor rendered obvious by the Kahn reference." The Examiner respectfully disagrees. After carefully reconsideration of the Kahn reference the Examiner asserts Kahn discloses forming one or more completed shifts (via the payroll information for employer-defined payroll group), responsive to identified

Art Unit: 3627

transactions and the employee's schedule (by specifying an autopay schedule, as illustrated in the autopay schedule for full time employee based on the specified number of hours per workday) (col. 36. lines 60-67). Further, Applicants are reminded that during examination, claims are given their "broadest reasonable interpretation" *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).¹ Therefore, under the broadest reasonable interpretation standard, the Examiner maintains her interpretations.

Next, in response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., identified transaction may comprise such punch data along with schedule special pay) are not recited in rejected claims 1, 33, 35 and 36. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Further, Applicants next argue, "as indicated in the official action, Kahn et al. does not disclose calculating compensation based on identified transaction such as actual attendance collected from punch data." This argument may be true, however, the Examiner did not rely on Kahn reference for this limitation. Since Applicant(s) did not seasonably traverse the well-known (Official Notice) statement(s) as stated in the previous Office Action, therefore, the object of the well-known (Official Notice) statement(s) are taken to be admitted prior art. See MPEP §2144.03.


¹ 19 See also MPEP §2111; *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701

Art Unit: 3627

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lynda Jasmin
Primary Examiner
Art Unit 3627

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